

SERVICE DATE - MAY 22, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-570 (Sub-No. 1X)

PALOUSE RIVER & COULEE CITY RAILROAD, INC.--ABANDONMENT
EXEMPTION--IN LATAH COUNTY, ID

Decided: May 16, 2001

Palouse River & Coulee City Railroad, Inc. (PRCC) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 26-mile portion of its rail line between milepost 21.0 at Harvard and milepost 47.0 at Bovill, in Latah County, ID. Notice of the exemption was served and published in the Federal Register on October 6, 2000 (65 FR 59891). On November 6, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for Latah County Board of County Commissioners (Latah County) and the Latah Trail Foundation Inc. (LTF) to negotiate an interim trail use/rail banking agreement with PRCC for the right-of-way involved in this proceeding.¹ The negotiating period under the NITU expired on May 6, 2001.

On May 7, 2001, Latah County filed a request to extend the negotiation period for an additional 180 days. By letter filed May 16, 2001, PRCC stated that it is agreeable to a 180-day extension of the NITU negotiation period.

¹ The November 6 decision also imposed environmental conditions that required PRCC to: (a) prior to abandonment and salvage of the right-of-way, further consult with Idaho Department of Environmental Quality (IDEQ) to (i) obtain a section 401 Clean Water Act, water quality certification, if needed; (ii) develop a prevention plan to address possible rail bed material erosion; (iii) develop a plan to identify and help prevent hill slope mass wasting/landslides; (iv) develop methods to prevent leaching of wood preservatives from exposed treated wood; (v) identify stream reaches that may be affected by rail bed placement/location; (vi) identify and clean up railroad tie pile debris dumps and contaminated areas; and (vii) ensure that a hazardous materials contingency plan, which includes IDEQ notification, is in place to address hazardous materials remediation; (b) further consult with the Idaho Historic Preservation Office and retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (c) consult with the U.S. Army Corps of Engineers prior to salvage of the right-of-way to determine if the proposed project is consistent with applicable Federal, state and local water quality standards and to determine if permits are required under section 404 of the Clean Water Act; and (d) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F. 3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to November 2, 2001.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended to November 2, 2001.
2. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary